

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

DEC 21 2015

Clerk, U.S. District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUKE ALDON HAYES,

Defendant.

CR 15-35-M-DLC

FINDINGS AND
RECOMMENDATION
CONCERNING PLEA

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of being a felon in possession of firearms in violation of 18 U.S.C. § 922(g)(1) (Count IV of the Indictment), and one count of the possession of firearms that were not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. § 5861(d) (Count V of the Indictment).

Defendant further agrees to the Third Forfeiture Allegation of the Indictment, and agrees to forfeit the firearms, firearm components and accessories, and ammunition identified in the Plea Agreement.

In exchange for Defendant's pleas and his agreement to the forfeiture

allegations, the United States has agreed to dismiss Counts I, II, III and VI of the Indictment, and the First and Second Forfeiture Allegations in the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering informed and voluntary pleas to the criminal offenses charged against him, and an informed and voluntary admission to the allegation of forfeiture;

2. That the Defendant is aware of the nature of the charges against him and the consequences of pleading guilty to the charges;

3. That the Defendant understands the allegation of forfeiture and the consequences of admitting to the allegation;

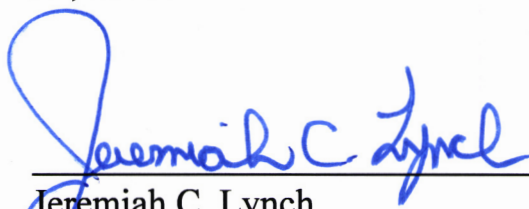
4. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights by pleading guilty to the criminal offenses charged against him, and admitting to the allegation of forfeiture;

5. That both his plea of guilty to the criminal offenses charged against him and his admission to the allegation of forfeiture are knowingly and voluntarily entered, and are both supported by independent factual grounds sufficient to prove each of the essential elements of the criminal offense charged and the legal basis for the forfeiture.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Counts IV and V of the Indictment, that the agreed forfeiture be imposed against Defendant, and that sentence be imposed. I further recommend that Counts I, II, III and VI of the Indictment, together with the First and Second Forfeiture Allegations, be dismissed.

This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.

DATED this 21st day of December, 2015.



Jeremiah C. Lynch
United States Magistrate Judge